IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR.

S.B. CIVIL SECOND APPEAL NO.213/1999

03.12.2007.

HON'BLE MR. JUSTICE DALIP SINGH

Shri V.S. Yadav, for the appellant.
Shri B.L. Gupta, for the respondent.

Learned counsel for the parties submit that this appeal may be disposed in terms of the orders passed by this court on 12.9.2006 in S.B. Civil Second Appeal No.86/2001 Nawal Kishore Mishra Vs. RSRTC & Anr.

The said order reads as follows:

> "Learned counsel for the plaintiff-appellant wants to withdraw this second appeal as well as suit itself, so as to initiate the legal remedy before the appropriate forum under the provisions of the Industrial Disputes Act, 1947, in view of the judgment of the Hon'ble Supreme Court in Rajasthan State Road Transport Corporation & Others Vs. Zakir Hussain, (2005 (7) S.C.C. 447).The prayer of the plaintiff-appellant is allowed. The second appeal is dismissed as withdrawn. It will be open for the plaintiff-appellant to seek remedy under the provisions of the Industrial Disputes Act, 1947. In case the plaintiff-appellant approaches the appropriate forum under the provisions of the Industrial Disputes Act, 1947, then the matter of the plaintiff-appellant shall be considered in accordance with the provisions of law without being influenced by the judgments of both the courts below.
>
> It will be open for the defendant-respondents to raise legal as well as pleas on merits of the case before the appropriate forum.
>
> The second appeal is accordingly dismissed as withdrawn with no order as to costs"

In view of the above the appeal filed by

the RSRTC is allowed. The judgment and decree are set aside.

The learned counsel for the respondents pray that he may be permitted to withdraw the suit with liberty to approach the learned labour court under the I.D. Act, 1947, The said prayer of the respondent is allowed. Since the dispute relates to the year 1985 the State Government is directed to issue necessary orders for reference of the dispute within four weeks of the submission of the certified copy of this order. This second appeal as well as the stay application are disposed of.

(DALIP SINGH),J.

Ramchandrkhatri,PS